

**REQUEST FOR EXAMINER INTERVIEW**

The Examiner is requested to contact the undersigned to arrange a personal interview at a mutually convenient time.

**REMARKS**

In view of the foregoing amendments and the following remarks, reconsideration and allowance of this application are requested.

Claims 46-95 are now pending with claims 46, 71, 80, 90, 91 and 92 being independent. Claims 11-45 have been canceled and claims 46-95 are newly presented for consideration. New claims 46-95 find support at least in the same locations as canceled claims 11-45, for example, in the specification at page 1, lines 10-12; page 2, lines 7-10; page 29, lines 5-25; and Figure 13.

Claims 11-18 and 30-38 are rejected or objected to for the reasons set forth at pages 2-3 of the office action. Without conceding the propriety of the Examiner's position, and solely to expedite prosecution, claims 11-45 have been canceled thereby rendering this rejection and objection moot. New claims 46-95 were drafted in light of the Examiner's concerns and are submitted to be in full compliance with 35 U.S.C. §112.

For the reasons set forth at pages 3-11 of the office action, claims 11-45 were rejected variously under 35 U.S.C. §102(e) and §103(a) as being unpatentable over Nahan (USP 5,664,111), Silverman (USP 5,077,665) and an assertion of official notice. These rejections and their underlying rationale are traversed in their entirety. In addition, newly presented claims 46-95 are allowable at least for the following reasons.

Independent claim 46 recites a computer-implemented two-tiered electronic market

system that includes a data repository storing information corresponding to an inventory of one or more available items. The two-tiered electronic market system also includes a first-tier electronic market providing a first participant access to the inventory of one or more items in the data repository. The inventory is offered to the first participant under a first pricing scheme. A second-tier electronic market provides a second participant, different from the first participant, access to the inventory of one or more items in the data repository. The inventory is offered to the second participant under a second pricing scheme different from the first pricing scheme. The art of record fails to disclose or suggest the combination of features recited in claim 46.

Nahan relates to a multimedia presentational and marketing system in which an art dealer ("the showing dealer") can show his customers images of another art dealer's inventory (i.e., "the listing dealer"). As disclosed in Nahan in Figs. 21-22 and at column 13, lines 3-28, Nahan's presentational system includes a color-coding scheme that can assist the showing dealer in setting a price in a way that helps prevent a customer from determining the mark up. More specifically, when a showing dealer clicks the "Price" button in Nahan's system a price difference ratio is calculated between the listing dealer's suggested retail price and a wholesale price previously paid by the listing dealer. The calculated price difference ratio represents an amount of discount from the listing dealer's suggested retail price.

However, Nahan fails to disclose or suggest a two-tiered electronic market system as recited in claim 46 in which inventory can be offered for sale to different participants under different pricing schemes. To the contrary, Nahan's system is directed to presenting inventory only to a single tier of potential buyers - namely, to retail consumers. Nahan does

not disclose or suggest offering inventory under two different pricing schemes. Rather, Nahan's system uses wholesale price history to assist the showing dealer in determining the amount of discount that can be offered to a potential buyer. This is far different from offering inventory to different participants at different pricing schemes - for example, retail and wholesale - as recited in claim 46. Accordingly, claim 46 is allowable over Nahan for at least this reason.

The remaining citation to Silverman fails to cure the deficiencies of Nahan. Silverman relates to matching systems for effectuating trades of trading instruments through automatic matching. In Silverman, buyers and sellers who are willing to trade with one another based on specific criteria (e.g., price, quantity and credit) may automatically trade when matching events occur satisfying the specified criteria. However, Silverman fails to disclose or suggest a two-tiered electronic market system as recited in claim 46 in which inventory can be offered for sale to different participants under different pricing schemes.

These differences from the cited provide the system of claim 46 with several advantages. For example, in addition to the advantages noted at specification page 29, lines 15-22, the two-tiered electronic market system of claim 46 enables dealers to offer wholesale pricing to other dealers while charging higher-profit retail prices to retail customers.

New independent claim 71 recites a computer-implemented method of facilitating commercial transactions by providing a two-tiered electronic market. The method includes maintaining at a market maker computer a first-tier electronic market in which items are offered to consumer participants under a retail pricing scheme, and a second-tier electronic market in which items are offered to dealer participants under a wholesale pricing scheme.

The first-tier and second-tier electronic markets are linked through a data repository having data records that uniquely represent items concurrently available in both of the first-tier and second-tier electronic markets. As discussed above, the art of record fails to disclose a two-tiered electronic market that offers items under a retail pricing scheme to consumer participants and under a wholesale pricing scheme to dealer participants, as recited in claim 71. Accordingly, claim 71 is allowable at least for this reason.

New independent claim 80 recites a method for facilitating electronic commerce using an electronic auction system having at least a wholesale tier and a retail tier. The method includes presenting for auction an item description, including a current retail bid amount, stored in a database operationally coupled to the electronic auction system, receiving a wholesale bid from at least one wholesale-tier participant, and selectively displacing the current retail bid amount if the received wholesale bid increased by a predetermined amount is greater than the current retail bid. The art of record fails to disclose or suggest a method for facilitating electronic commerce using an electronic auction system having at least a wholesale tier and a retail tier, as recited in claim 80. Accordingly, claim 80 is allowable at least for this reason.

New independent claim 90 recites a system for facilitating electronic commerce transactions among participants over a data packet network. The system includes a first data storage location for storing information describing an item for sale. The first data storage location includes at least a retail price term for a retail-tier participant and a wholesale price term for a wholesale-tier participant. A second data storage location stores a user identification identifying a participant as either a retail-tier participant or a wholesale-tier

participant. A display process selectively displays, depending on the user identification stored in the second data storage location, the retail price term to retail-tier participants and at least the wholesale price term to wholesale-tier participants. The art of record fails to disclose or suggest a system as recited in claim 90 in which a display process selectively displays, depending on a user identification, a retail price term to retail-tier participants and at least a wholesale price term to wholesale-tier participants. Accordingly, claim 90 is allowable at least for this reason.

New independent claim 91 recites a two-tiered auction system comprising a retail tier in which a bid on an item from a retail auction participant is evaluated based on an amount of the bid received from the retail auction participant; a wholesale tier in which a bid on the item from a wholesale auction participant is evaluated based on an amount of the bid received from the wholesale auction participant increased by a predetermined amount; and a process for differentiating retail auction participants from wholesale auction participants.

New independent claim 92 recites a method of conducting two-tiered auctions comprising treating received bids differently depending on whether the participant from whom a bid is received is a retail participant or a wholesale participant.

The art of record fails to disclose or suggest a two-tiered auction system or a method of conducting two-tiered auctions as recited in claims 91 and 92, respectively. Accordingly, claims 91 and 92 are allowable.

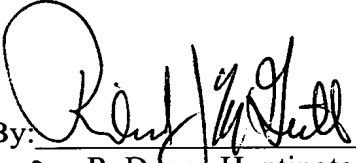
The remaining claims depend directly or indirectly from one of the independent claims discussed above. Accordingly, the dependent claims are allowable for the reasons that their respective independent claims are allowable and for reciting allowable subject matter in

their own right. Independent consideration and allowance of the dependent claims are requested.

In view of the foregoing amendments and remarks, this application is in condition for allowance, and a notice thereof is requested.

Respectfully submitted,

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